

ORDINANCE COVER SHEET

Bill No. 2015-53

Ordinance No. 3231

**“AN ORDINANCE AUTHORIZING THE CITY TO ENTER INTO AN
AGREEMENT WITH WHITE RIVER ENGINEERING, INC.,
FOR ENGINEERING SERVICES ON THE WWTP FOR UPGRADING
OXIDATION DITCH IMPROVEMENTS.”**

Filed for public inspection on: August 11, 2015

First reading ____ In Full; X By Title on: August 13, 2015.

Second reading ____ In Full; X By Title on: August 13, 2015.

Vote by the Board of Aldermen on: August 13, 2015.

7 Aye; 0 Nay; 0 Abstain; 1 Absent

x Approved by the Mayor Pro Tem on: August 13, 2015.

____ Vetoes by the Mayor on _____.

Board of Aldermen Vote to Override Veto on _____.

____ Aye; ____ Nay; ____ Abstain.

Bill Effective Date: August 13, 2015

“AN ORDINANCE AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT WITH WHITE RIVER ENGINEERING, INC., FOR ENGINEERING SERVICES ON THE WWTP FOR UPGRADING OXIDATION DITCH IMPROVEMENTS.”

Be it Ordained by the Board of Aldermen of the City of Bolivar, Missouri, as follows:

Section I: The City is hereby authorizing an agreement with White River Engineering, Inc., for engineering services on the WWTP for engineering services on the wastewater treatment plant for upgrading oxidation ditch improvements; with such agreement terms to be in the form attached hereto as Exhibit “A” and made a part hereof by reference.

Section II: The Mayor and City Clerk are hereby authorized and directed to enter into an agreement as described above for and on behalf of the City.

Section III: This Ordinance shall be in full force and effect from and after its passage by the Board of Aldermen and approval by the Mayor.



Natalie Scrivner, City Clerk


John F. Best, Mayor

AGREEMENT FOR ENGINEERING SERVICES

THIS AGREEMENT, made this 28th day of April, 2015, by and between the **City of Bolivar, Missouri**, hereinafter referred to as **Owner**, and **White River Engineering, Inc.**, hereinafter referred to as **Engineer**.

WHEREAS, the Owner intends to construct certain improvements at its existing municipal wastewater treatment facility;

WHEREAS, the Engineer agrees to perform the various professional engineering services required for the design and construction of said improvements;

NOW THEREFORE, for and in consideration of certain amounts hereinafter specified to be paid to the Engineer by the Owner, the Engineer agrees to perform all of the engineering work as hereinafter described.

PROPOSED IMPROVEMENTS

Based on discussions with Owner's representatives, the proposed improvements will include the following:

- Remove all liquid, scum, and accumulated (settled) solids from the west oxidation ditch and properly dispose of off-site in accordance with governing regulations.
- Demolish the existing integral, side channel clarifier (Smith & Loveless Strata-Clear) assembly on east side of oxidation ditch and replace with reinforced concrete wall to provide increased treatment volume and a uniform channel cross-section throughout the oxidation ditch.
- Remove and replace existing aeration equipment consisting of three (3) Smith & Loveless brush rotor aerators, each being 22-feet 5-inches long. New brush rotor aerators to be installed at same locations as existing brush rotor aerators. Include covers for the new brush rotor aerators as a bid alternate.
- Provide new oxidation ditch effluent weir structure at north end of new concrete wall and pipe to adjacent manhole.
- Basis for design of proposed improvements:
It is intended that the upgraded oxidation ditch be capable of treating half the permitted design flow of 2.55 mgd or 1.28 mgd. Influent BOD and TKN concentrations average 200 mg/l and 25 mg/l, respectively. The new rotors will need to be capable of meeting oxygen (O₂) demand for BOD removal + nitrification. MDNR design standards requires 1.8 lbs O₂/lb of BOD applied for extended aeration processes + 4.6 lbs O₂ times influent TKN content. On this basis, the new rotors should be designed to provide 5,070 lbs O₂/day with one unit out of service. The new effluent weir should be capable of handling at least half of the peak wet weather flow of 6.5 mgd. However, if practical, the effluent weir system will be designed to handle total peak wet weather design flow.
- No electrical system modifications or improvements are expected to be required in association with the proposed brush rotor aerator replacements.

SCOPE OF ENGINEERING SERVICES

Design Phase: After written authorization to proceed, Engineer will provide the following Design Phase Engineering Services:

- Meet with Owner's representatives to clarify and fully define the Owner's requirements, expectations, and precise scope of work for the Project.
- Identify and analyze requirements of governmental authorities having jurisdiction over the Project and participate in consultations with such authorities.
- Obtain available Record Drawings from Owner to use as background drawings on which to depict proposed improvements.
- Prepare detailed construction drawings showing the general scope, extent, and character of work to be furnished and performed by Contractor. Drawings will be of sufficient detail

indicating plan layout and elevations to fix and illustrate the size and character of the project and its essentials as to kinds of material, site work, mechanical work, electrical work and other such work as may be necessary for proposed improvements. Include sufficient notes on the drawings to specify acceptable equipment and materials of construction.

- Prepare bid documents and technical specifications covering materials, equipment and work to be provided by Contractor.
- Drawings, technical specifications, and bid documents will conform to Department of Natural Resources (DNR) Rules and Regulations including, but not limited to, 10 CSR 20-8.
- Prepare preliminary opinion of probable construction cost based on final plans.
- Prepare MDNR construction permit application (if required). Permit fee to be paid by Owner.
- Submit all documents to Owner and MDNR (if required) for review and comment. Based on the review(s), the documents will be revised accordingly and re-submitted for final approval.

Bidding & Construction Phase: The Engineer will provide basic engineering services during the bidding and construction phase as follows:

- Assist Owner with construction bid letting.
- Arrange for distribution of plans and specifications to prospective bidders.
- Prepare and issue any necessary Addenda during the bidding process.
- Attend bid opening.
- Assist Owner in reviewing and analyzing construction bids and make recommendation for contract award.
- Review and approve Shop Drawing Submittals on equipment and construction materials.
- Review and certify Contractor's progress and final payment requests.
- Interpret the intent of the plans and specifications where questions may arise.
- Attend pre-construction & progress meetings with Contractor & Owner representatives.
- Make periodic site visits at important construction milestones to insure the Work is proceeding in accordance with the plans and specifications and submit written progress and observation report to Owner summarizing each visit.
- Make final inspection of completed work and provide written certification to Owner.
- Prepare Record Drawings reflecting changes during construction.
- Assist Owner with project close-out.

OWNER'S RESPONSIBILITIES

Owner shall do the following in a timely manner so as not to delay the services of Engineer:

- Designate in writing a person to act as Owner's representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define Owner's policies and decisions with respect to Engineer's services for this Project.
- Provide all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the Drawings and Specifications.
- Assist Engineer by placing at Engineer's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.
- Arrange for access to and make all provisions for Engineer to enter upon public property as required for Engineer to perform services under this Agreement.
- Examine all studies, reports, sketches, Drawings, Specifications, proposals and other documents presented by Engineer, obtain advice of an attorney, insurance counselor and other consultants as Owner deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of Engineer.

- Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.
- Provide such accounting, independent cost estimating and insurance counseling services as may be required for the Project, such legal services as Owner may require or Engineer may reasonably request with regard to legal issues pertaining to the Project including any that may be raised by Contractor(s), such auditing service as Owner may require to ascertain how or for what purpose any Contractor has used the moneys paid under the construction contract, and such inspection services as Owner may require to ascertain that Contractor(s) are complying with any law, rule, regulation, ordinance, code or order applicable to their furnishing and performing the work.
- If more than one prime contract is to be awarded for construction, materials, equipment and services for the entire Project, designate a person or organization to have authority and responsibility for coordinating the activities among the various prime contractors.
- Attend the pre-bid conference, bid opening, preconstruction conferences, construction progress and other job related meetings and substantial completions inspections and final payment inspections.
- Give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of any development that affects the scope or timing of Engineer's services, or any defect or nonconformance in the work of any Contractor.

TIME FOR COMPLETION OF WORK

All work to be performed by the Engineer under this Agreement shall be completed within the following time frame:

Design Phase: Drawings, specifications, and bid documents will be completed and submitted to Owner for review within 90 calendar days following Owner's authorization to proceed.

Bidding & Construction Phase: All bidding and construction phase engineering services shall be completed within 180 calendar days after initiation of construction of the project.

Provided, however, that delays beyond the control of the Owner or the Engineer shall be just cause for extension of time for completion.

FEES AND COMPENSATION

Design Phase: Engineer will perform required design phase engineering services and bill Owner on the basis of actual time accrued working on the project plus expenses at the following charge rates not-to-exceed **\$39,840.00**.

- Richard McMillian, PE - \$90 per hour
- Thomas Hancock, PE - \$75 per hour
- Outside Services - Actual cost plus 10% administration fee
- Printing - Actual cost
- Postage (Above 1st class rates) - Actual cost
- Mileage - \$0.575 per mile

Bidding & Construction Phase: Engineer will perform required bidding and construction phase engineering services and bill Owner on the basis of actual time accrued working on the project plus expenses at the aforementioned charge rates not-to-exceed **\$9,960.00**.

It is understood and agreed that the above not-to-exceed amount for bidding and construction phase services is limited to six (6) site visits during construction.

GENERAL CONDITIONS

1. PAYMENT TERMS: A/E will submit invoice to CLIENT monthly and/or upon completion of services. Payment is due upon receipt regardless of whether CLIENT has been, or is to be, reimbursed by any other party. CLIENT agrees to pay a service charge of one and one-half percent (1-1/2%) per month on accounts 45 days past due. If requested by CLIENT, LIEN WAIVERS will be provided upon payment. All collection charges will be assessed to CLIENT which CLIENT agrees to pay.

2. INSURANCE: A/E maintains Worker's Compensation and Employer's Liability Insurance in conformance with applicable state law. A/E has insurance under public liability and property damage which A/E deems adequate. Certificates of insurance evidencing such coverage will be provided, if requested.

3. STANDARD OF CARE: The only warranty or guarantee made by A/E in connection with the services performed hereunder, is that A/E will use that degree of care and skill ordinarily exercised under similar conditions by reputable members of the profession currently practicing in the same or similar locality. NO OTHER REPRESENTATION, WARRANTY, OR GUARANTEE EXPRESSED OR IMPLIED IS MADE OR INTENDED BY PROPOSAL, SERVICES PERFORMED OR BY FURNISHING ORAL OR WRITTEN REPORTS.

4. RISK ALLOCATION: Due to the very limited benefit A/E will derive from this Project compared to that of other parties involved, including CLIENT, CLIENT AGREES THAT TO THE FULLEST EXTENT PERMITTED BY LAW TO LIMIT A/E'S TOTAL LIABILITY TO CLIENT, OR ANY OTHER PARTY USING OR RELYING ON A/E'S WORK, FOR ANY AND ALL INJURIES, CLAIMS, LOSSES, EXPENSES OR DAMAGES WHATSOEVER ARISING OUT OF OR IN ANY WAY RELATING TO THE WORK, THE PROJECT, OR THIS AGREEMENT FROM ANY CAUSE OR CAUSES INCLUDING BUT NOT LIMITED TO NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, OR BREACH OF AGREEMENT TO THE GREATER OF THE TOTAL AMOUNT PAID BY THE CLIENT FOR THE SERVICES UNDER THIS AGREEMENT OR A COMBINED TOTAL FOR ALL PARTIES OF \$50,000.00, WHICHEVER IS GREATER.

5. RIGHT-OF-ENTRY: CLIENT will furnish right-of-entry on the property for A/E employees, agents, and subcontractors to perform the service and represents that it has obtained the needed permits and licenses for the Project. A/E will take reasonable precautions to minimize damage to the property caused by its operations, but have not included in the fee the cost of restoration of damage which may result. If CLIENT desires A/E to restore the property to its former condition, A/E will accomplish this and add the cost to the fee.

6. OWNERSHIP OF DOCUMENTS: Unless provided otherwise, all documents including but not limited to drawings, electronic files, specifications, reports, boring logs, field notes, laboratory test data, calculations and estimates prepared by A/E as instruments of service pursuant to this Agreement, shall be the sole property of A/E. CLIENT agrees that all documents of any nature furnished to CLIENT or CLIENT's agents or designate, if not paid for, will be returned upon demand and will not be used by CLIENT for any purpose whatsoever. CLIENT further agrees that under no circumstances shall any documents produced by A/E, pursuant to this Agreement, be used at any location or for any project not expressly provided for in this Agreement without the written permission of A/E. At the request and expense of CLIENT, A/E will provide CLIENT with copies of documents created in the performance of the Work for a period not exceeding one year following completion of service.

7. DELIVERY OF ELECTRONIC FILES: In accepting and utilizing any drawings, reports and data on any form of electronic media generated and furnished by A/E, CLIENT agrees that all such electronic files are instruments of service of A/E, who shall be deemed the author, and shall retain common law, statutory law and other rights, including copyrights.

CLIENT agrees not to reuse these electronic files, in whole or in part, for any purpose other than for the Project. The CLIENT agrees not to transfer these electronic files to others without the prior written consent of A/E. CLIENT further agrees to waive all claims against A/E resulting

in any way from unauthorized changes to or reuse of the electronic files for any other project by anyone other than A/E.

CLIENT and A/E agree that any electronic files furnished by either party shall conform to the specifications agreed upon in the Contract. Any changes to the electronic specifications by either the CLIENT or A/E are subject to preview and acceptance by the other party. Additional services by A/E made necessary by changes to the electronic file specifications shall be compensated for as Additional Services.

Electronic files furnished by either party shall be subject to an acceptance period of 30 days during which the receiving party agrees to perform appropriate acceptance tests. The party furnishing the electronic file shall correct any discrepancies or errors detected and reported within the acceptance period. After the acceptance period, the electronic files shall be deemed to be accepted and neither party shall have obligation to correct errors or maintain electronic files. CLIENT is aware that differences may exist between the electronic files and printed hard-copy construction documents. In the event of a conflict between the signed construction documents prepared by A/E and electronic files, the signed or sealed hard-copy construction documents shall govern.

In addition, CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold harmless A/E, its officers, directors, employees and sub-consultants (collectively, A/E) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from any changes made by anyone other than A/E or from any reuse of the electronic files without the prior written consent of A/E.

Under no circumstances shall delivery of electronic files for use by CLIENT be deemed a sale by A/E and A/E makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. In no event shall A/E be liable for indirect or consequential damages as a result of CLIENT's use or reuse of the electronic files.

8. SAFETY: Should A/E provide any services at the job site during construction, CLIENT agrees that, in accordance with generally accepted construction practices, the contractor shall be solely responsible for working conditions on the job site, including safety of all persons and property during the performance of the Work, and compliance with OSHA regulations, and these requirements will apply continuously and not limited to normal working hours.

9. LOCATION OF EXISTING MANMADE OBJECTS: It shall be the responsibility of CLIENT or his authorized representative to disclose the presence and accurate location of all hidden or obscure man-made objects relative to the Work being performed. CLIENT agrees to indemnify and save harmless A/E from all claims, suits, losses, personal injuries, death and property liability resulting from damages to subsurface structures, owned by CLIENT or third parties, occurring from work performed on the site, whose presence and exact locations were not revealed to A/E in writing, and to reimburse A/E for expenses in connection with any such claims or suits, including reasonable attorneys' fees.

10. SUSPENSION OF SERVICES/TERMINATION: Either party may suspend performance immediately upon becoming aware of a breach of the terms of this Agreement by the other party and provide notice of its intention to terminate. In the event A/E determines there may be a significant risk that A/E's invoices may not be paid on a timely basis, A/E may suspend performance and/or retain any records or other information until CLIENT provides A/E with adequate assurance of payment. The filing of a voluntary or involuntary bankruptcy petition, appointment of a receiver, assignment for the benefit of creditor, or other similar act of insolvency shall constitute a breach. Termination will become effective fourteen (14) calendar days after receipt of notice by the breaching party unless the event(s) giving rise to the breach are remedied within that time frame.

11. GOVERNING LAWS: This Agreement shall be governed in all respects by the laws of the State of Missouri.

ACKNOWLEDGMENTS AND AUTHORIZATION

IN WITNESS WHEREOF, the City of Bolivar, Missouri, as Owner by Dr. John Best, Mayor, and White River Engineering, Inc., as Engineer by Richard McMillian, P.E., President, have caused this Agreement to be signed this 28th day of April, 2015.

WHITE RIVER ENGINEERING, INC.

By:

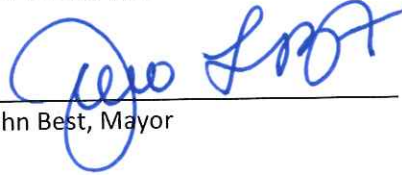


Richard McMillian, President

AUTHORIZED AND AGREED TO:

CITY OF BOLIVAR, MISSOURI

By:



Dr. John Best, Mayor